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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,781	06/13/2006	Torvald Vestberg	0365-0679PUS1	5034
2292 7590 08/25/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
LU, C CAIXIA				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/582,781

Applicant(s)

VESTBERG, TORVALD

Examiner

Caixia Lu

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-14, 16, 19-24 and 26-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-14, 16, 19-24 and 26-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-4, 7-14, 16, 19-24 and 26-39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1

The limitation of "wherein the isotacticity of the first polymer grade is changed" is new matter since the isotacticity of the first polymer grade is not changed according to the disclosed polymerization condition in the specification. However, the isotacticity of the second polymer grade is different from the first polymer grade due to the different external donor of the catalyst composition.

The limitation of catalyst particles supported on external carrier appears to be new matter as well since the catalyst particles disclosed in paragraphs [0016] and [0052] of the specification are "self-supporting" and do not contain any external carrier such as silica.

Claim 33

The limitation of the Ziegler Natta catalyst system to include both first and second external donors is new matter since the specification only support the catalyst system comprising a first external donor for the preparation of the first polymer grade and the catalyst system comprising a second external donor for the preparation of the second polymer grade.

4. Claims 1-4, 7-14, 16, 19-24 and 26-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1

(i) The limitations of the "predetermined level" of melt flow rate of the polymer and hydrogen are not defined, which renders the claims indefinite. The "predetermined level" can be a constant level, a level with variation, two different levels, or two different levels with variations as long as those level are "predetermined".

(ii) The article "a" is missing in the front of term "second external donor" in line 8.

Claim 2

The use of the relative term "strongly" renders the limitation of "a strongly coordinating donor" indefinite since a skilled artisan would not able to determine the metes and bounds of "a strongly coordinating donor". The term "strongly" should be replaced with --strong-- to be grammatically.

Claims 7, 11 and 15

In both claims respectively, the limitation of the solid catalyst "particles having a predetermined size range" lacks definition since the "predetermined size range" is non-limiting.

Claim 7

The claimed catalyst preparation process does not provide a catalyst particles supported on an external carrier; therefore, the catalyst particles do not have antecedence since claim 1 requires the catalyst particles to be supported on an external carrier.

Claim 14

The essential component of "an external donor" of the catalytic system should not be left out.

Claims 25 and 26

In both claims respectively, the limitations of the hydrogen volume of a "predetermined level" lacks definition since the "predetermined level" is non-limiting.

Claim 33

The limitations of the "predetermined of melt flow rate and isotacticity" are not defined, which renders the claims indefinite. The "predetermined melt flow rate and isotacticity" are non-limiting.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 33-35 and 37-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Thorman (US 7,078,468).

Thorman teaches a process for preparation propylene polymer in the presence of a Ziegler catalyst with various dimethoxysilanes as the external electron donors (col. 5, lines 39-66). In Fig. 2 and Table II, Thorman discloses the relation between hydrogen concentration and melt flow rate (MF) of polypropylene prepared in the presence of the Ziegler catalyst with various dimethoxysilanes as the external electron donors, and the polypropylenes prepared with cyclohexylmethyldimethoxysilane (CMDS) and diisobutyldimethoxysilane (DIBDS) have about the same MF's but different xylene solubles (XS) when the concentration of hydrogen is kept at the same level in the range of 0.08 to 0.20 mol%. Isotacticity of the polypropylene is reflected in the amount of xylene solubles (XS), the higher the XS, the lower the isotacticity. Since the polypropylene prepared in the presence of in the presence of CMDS and DIBDS have about the same MF but different the isotacticities in as listed in Table II, the polymerization processes disclosed in Example pairs of 1 and 9, 2 and 10, 3 and 11, 4 and 12 respectively anticipate the instant claims.

Response to Arguments

7. Applicant's arguments filed May 21, 2008 have been fully considered. The rejections of claims 1-4, 7-14, 16, 19-24, 26-32 and 36 under 35 U.S.C. 102(e) over Thorman (US 7,078,468) are withdrawn since Thorman does not teach or reasonably suggest the process of producing a propylene polymer blends of two grades of the propylene polymers having the same melting flow rates but different isotacticities. However, the rest of the rejections of the previous Office Action are maintained.

Issues under 35 USC 112, second paragraph

In the remarks, applicants have not yet provided any the metes and bounds of those "predetermined" variables; therefore, those rejections are maintained.

Issues under 35 USC 102

As shown in the previous Office Action and recited above, Example pairs of 1 and 9, 2 and 10, 3 and 11, 4 and 12 respectively demonstrate the processes wherein the propylene polymer prepared in each example pair having essentially the same melt flow rates but different isotacticities while the hydrogen concentration are maintain substantially the same. The rejections are based on each of the example pairs rather among the examples pairs mistaken by the applicants, i.e., comparison is between examples 1 and 9, 2 and 10, 3 and 11, or 4 and 12 rather "1 and 3", or "9 and 11" as cited by the applicants in the Remarks. Because applicants have not yet identified any errors in the rejections under 35 USC 102 as shown above, the rejections are thus maintained.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caixia Lu whose telephone number is (571) 272-1106. The examiner can normally be reached from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful and the matter is urgent, the examiner's supervisor, David Wu, can be reached at (571) 272-1114. The fax numbers for the organization where this application or proceeding is assigned is (571) 273-8300.

Art Unit: 1796

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1700.

/Caixia Lu/
Caixia Lu, Ph. D.
Primary Examiner